IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.06.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE V. DHANAPALAN

WRIT APPEAL NO.780 of 2006
and MP.No.1 of 2006

J.B. Khanna and Co.
No.10 Devaraja Mudali Street
Park Town, Chennai 3. .. Appellant

vs.

1. The Appellate Assistant Commissioner
   Kuralagam Annex
   Chennai 600 018.

2. Commercial Tax Officer
   Rattan Bazaar
   Assessment Circle
   Chennai 600 018. .. Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice K. Ravi Raja Pandiyan, dated 15.06.2006 made in W.P.No.17650 of 2006.

For appellant : Mr.A. Thiyagarajan
For respondents: Mr. Haja Nazirudeen
Spl. Govt., Pleader (Tax)

JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

Aggrieved by the order of the learned single Judge dated 15.06.2006 made in Writ Petition No.17650 of 2006, the appellant has filed the above appeal.

2. On direction, the learned Special Government Pleader (Tax) takes notice for the respondents.

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3. It is the grievance of the appellant that pursuant to the direction of the Appellate Assistant Commissioner (CT I) dated 11.05.2006, he deposited 25% of the disputed tax amount of Rs.4,46,619/- on 06.06.2006. In the same order, the Appellate Assistant Commissioner has directed the appellant to furnish security to the satisfaction of the Assessing Authority for the balance of 50% of tax and penalty in full. Aggrieved by the said order, the appellant herein filed W.P.No.17650 of 2006 before this Court. Learned single Judge, by the impugned order dated 15.06.2006, while modifying the order of the Appellate Assistant Commissioner, permitted the petitioner to furnish personal bond in respect of the balance amount and directed the petitioner to make payment of 20% more of the disputed tax in addition to the 25% directed by the Appellate Assistant Commissioner.

4. The learned counsel for the appellant contended that considering the fact that the appellant is a running concern and taking note of its turn over, the learned Judge is not justified in imposing further condition for payment of 20% of the disputed tax in addition to 25% as ordered by the Appellate Assistant Commissioner.

5. We considered the grievance expressed by the appellant and heard the learned Special Government Pleader for Tax.

6. Taking note of the grievance expressed by the appellant and the submission made by his counsel, we modify the order of the learned Judge dated 15.06.2006 in the following manner.

> " In view of the fact that the appellant has deposited 25% of the disputed tax as directed by the Appellate Assistant Commissioner on 06.06.2006, we set aside the order of the learned Judge for payment of additional 20%. However, we confirm the further direction of the learned Judge for permitting the petitioner/appellant to furnish personal bond.

To this extent the order of the learned Judge dated 15.06.2006 is modified. The writ appeal is partly allowed. No costs. Consequently, connected MP., is closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Appellate Assistant Commissioner
   Kuralagam Annex
   Chennai 600 018.

2. Commercial Tax Officer
   Rattan Bazaar
   Assessment Circle
   Chennai 600 018.

1 cc To Mr.A.Thiagarajan, Advocate, SR.27261.
1 cc To The Special Government Pleader (Taxes), SR.27439.

Writ Appeal No.780 of 2006

HPR(CO)
RVL 03.07.2006

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